



KANSAS DEPARTMENT OF CORRECTIONS

	INTERNAL MANAGEMENT POLICY AND PROCEDURE	SECTION NUMBER	PAGE NUMBER
		12-134A	1 of 5
		SECURITY AND CONTROL: Uniform Review of Publications	
Approved By:  Secretary of Corrections		Original Date Issued:	04-20-16
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POLICY STATEMENT

Staff at a correctional facility designated by the Deputy Secretary, Facility Management, shall review all publications received by mail for intended delivery to offenders, and shall, on an individual basis for each publication, decide whether to allow such publication within KDOC facilities or to censor and deny delivery of such publication based upon the criteria set forth at KAR 44-12-313 and/or 44-12-601. Each facility shall designate personnel to coordinate with the Designated Facility regarding the publication review process.

Any decision to allow or censor a publication shall apply to all Departmental facilities.

The decision made by the staff of the Designated Facility may be appealed by an offender to the Secretary of Corrections or, at the direction of the Secretary, to the Secretary's designee.

By publication of this policy, it is the clear intent of the Secretary of Corrections to fully occupy the field of publication censorship, and no independent censorship of publications shall be undertaken by any facility within the Department.

DEFINITIONS

Business day: A day on which Kansas state governmental offices are open for regular business.

Designated Facility: The facility designated by the Deputy Secretary of Facility Management to perform the review functions with regard to publications intended for delivery to offenders.

Facility coordinator: The personnel designated by the Warden of each facility to coordinate with the Designated Facility regarding the publication review process.

Original Receiving Facility: The facility where the publication was originally received by mail. Normally, it is the facility where the offender addressee is housed.

PROCEDURES

I. Submission of Publications for Departmental Review

- A. Original Receiving Facility staff shall review all publications received by mail for intended delivery to offenders. If there is a question of whether a publication should be allowed into a correctional facility and it has not been reviewed at the Designated Facility, the Original Receiving Facility shall refer the publication to appropriate staff of the Designated Facility for review.

1. The sections of the publication in possible violation of policy shall be scanned as evidence and forwarded by way of Mail Review email distribution list to the Designated Facility and all other facility mailrooms.
 - a. The evidence shall contain at least the front cover, the publisher's information page, the issue number and/or date and the sections in question.
 - b. To avoid duplicate submissions, all facility mailrooms shall maintain a log of those publications sent for review, and the Designated Facility shall log all publications received, the action taken on the publication, and the dates of notification of decisions and return of the publication.
- B. Once a facility is notified that censorship of a publication has been proposed, the publication shall not be provided to any offender within that facility until a final decision has been reached.
- C. When the Designated Facility is also the Original Receiving Facility and to prevent duplication, Designated Facility staff shall periodically send to all mailrooms via the Mail Review email a list of all publications sent to the Designated Facility that have already been reviewed and approved. For publications received at the Designated Facility that have been denied, staff shall distribute the KDOC Notification of Publication Seizure/Censorship form to all mailrooms via Mail Review email distribution.

II. Publication Review by Designated Facility Staff

- A. The review of incoming publications intended for offenders shall be made by personnel at the Designated Facility.
- B. Any facility wishing to provide input regarding the possible censorship of a particular publication shall forward relevant comments to the facility recommending that the publication be censored.
 1. All comments shall be forwarded to the Designated Facility within two (2) business days of the receipt of the initial censorship proposal.
- C. Subsequent to the review of all comments and other relevant information, appropriate personnel of the Designated Facility shall render a decision as to whether the publication is to be allowed within KDOC facilities or if it is to be censored.
 1. The decision shall be made within five (5) business days of the receipt of the publication. If more time is needed, the Designated Facility will give notice to the facility mailrooms of the delay.
 2. If the decision is to allow the publication to be received by offenders, Designated Facility staff shall send to each facility by way of the Mail Review email distribution list a copy of a letter approving the publication.
 3. If Designated Facility staff make a determination that there is sufficient basis to censor a publication, based on the criteria set forth in KAR 44-12-601 and/or KAR 44-12-313, Attachment A, KDOC *Notification of Publication Seizure/Censorship* shall be completed as follows:
 - a. The area reserved for the name of the offender recipient shall be left blank;
 - b. Specific reasons for the determination shall be provided; and,
 - c. Personnel of the Designated Facility shall ensure that a copy of the censorship form is forwarded by Mail Review email distribution list to each KDOC facility mailroom.

III. Notice to Facilities of Final Decision

- A. Upon rendering a decision concerning the publication, personnel of the Designated Facility shall notify the KDOC facility coordinators by email as to the nature of the decision.
 - 1. If the decision is to censor, the decision shall be logged in the OMIS censored magazine list.
 - a. No entries to this list shall be made by anyone other than personnel of the Designated Facility.
 - 2. If the decision is to allow the publication to be received by offenders, a copy of a letter approving the publication shall be sent to each facility by using the Mail Review email distribution list.

IV. Notice to Offenders/Publisher

- A. When a publication has been censored, each facility receiving the publication shall notify the offender to whom the publication is addressed that the publication has been censored.
 - 1. To facilitate this procedure, the form provided to the facility by the Designated Facility personnel shall be copied, and the offender/recipient's name shall be added to the form.
- B. When a publication has been censored, personnel from the Designated Facility shall also provide notice to the publisher by using a copy of the form [Attachment A] sent to the offender.
 - 1. The publisher may request a review by the Secretary's designee by submitting a request for such a review within fifteen (15) business days of the date that the notice is issued.
 - 2. The publisher shall be notified by the Secretary's designee of his or her decision following the completion of the requested review.

V. Appeals

- A. An offender may appeal the decision to censor a publication by completing the appeal section of the censorship notification form and mailing the appeal and the publication, in its entirety, to the Secretary of Corrections or Designee for review. The offender is responsible for the cost of mailing the appeal and publication.
 - 1. Insolvent offenders may be issued credit for postage expenses under the provisions of IMPP 12-127, Issue of Inmate Hygiene Items, Writing Supplies, Postage and Copying Services.
- B. Upon receipt of the appeal within the office of the Secretary, the Secretary or the Secretary's designee shall notify all facility mailrooms by electronic mail that the censorship has been appealed. Within 20 business days of receipt of the appeal, the Secretary or the Secretary's designee shall review the appeal in the context of the publication in its entirety and make a disposition. This disposition shall be final and binding upon all parties concerned.
 - 1. The Secretary or the Secretary's designee shall inform the offender of the decision in writing.
 - 2. After the decision is made, the Secretary or the Secretary's designee shall electronically send the appeal decision with publication evidence to the Designated Facility to be distributed to all facility mailrooms. The publication will be returned the facility mailroom via bus transport where the appellant is housed for disposition.
 - a. At a minimum, each appeal record shall contain the appeal decision, the assigned FY#, the cover page, publisher's information page and the pages which are in violation of policy.

- b. The appropriate staff at the Designated Facility shall maintain and update appeal records on the KDOC Intranet "Publication Censor" record located under "Facility Management".
 - c. In the event that the publication as a whole must be retrieved, designated staff can access a copy from the publisher, the Kansas State Library or other sources for publications.
- 3. If it is the decision of the Secretary or the Secretary's designee that the censorship of the publication is reversed, and that the publication is allowed for delivery to offenders within the facilities of the KDOC, then the following actions shall be taken:
 - a. The Secretary or Secretary's designee shall notify the personnel of the Designated Facility that their censorship action has been reversed, and of the reasons for that reversal.
 - b. The personnel of the Designated Facility shall then in turn notify the mailroom personnel of all KDOC facilities by both email and regular mail that the publication is to be allowed within their respective facilities.
- 4. If an offender wishes to appeal a publication censorship that has already been appealed, the mailroom staff shall advise the offender of the previous appeal decision.

VI. Disposition of Censored Publications

- A. Any offender addressee of a censored publication shall be required to make disposition of the censored publication materials at the offender's expense.
 - 1. The offender shall be given the opportunity to send the publication to a location of his/her choosing, at his/her expense, pursuant to KAR 44-12-601(q)(4).
 - 2. Alternately, the offender may elect to have the publication destroyed.
 - 3. Final action occurs on the date the SOC or Designee renders a decision on the publication appeal. In any case, this shall not exceed 40 business days from the date of the original censorship.
- B. If the offender refuses or fails to make disposition of the publication within 30 calendar days of the final action regarding the publication, the publication shall be destroyed.

VII. Reversal of Previously Approved or Denied Publications

- A. After a publication has been through the appeals process or a final decision has been made, only under extraordinary circumstances should the decision be reversed.
 - 1. Reasons to reverse a final decision include, but are not limited to, new evidence uncovered, staff negligence, or changes in policy.
 - 2. In the event a publication was denied originally but later approved, the Secretary's Designee will instruct the Designated Facility staff to change the Publications Censor List to show the publication is now approved and send out a notice to all mailrooms of the change.
 - 3. In the event a publication was approved originally but later disapproved, the Secretary's Designee will instruct the Designated Facility staff to change the Publications Censor List to show the publication is now disapproved and send out a notice to all mailrooms of the change.

- a. Offenders who are in possession of this publication before the reversal date shall make disposition of the publication at their own expense but will not be issued any form of disciplinary sanction based on possession of the censored material.

VIII. This document shall form the full basis of policy on the matter of publication review and censorship, and no General Orders on this subject shall be allowed.

NOTE: The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities who are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

REPORTS REQUIRED

None.

REFERENCES

K.A.R. 44-5-111, 44-12-313, 44-12-601

ATTACHMENTS

Attachment	Title of Attachment	Page Total
A	KDOC Notification of Publication Seizure/Censorship	1 page(s)

KDOC NOTIFICATION OF PUBLICATION SEIZURE/CENSORSHIP

DATE: _____

TO: Inmate _____ # _____

Facility: _____

RE: _____ Issue Date: _____
[Title of Publication]

The publication identified above, published by _____ has been rejected in accordance with
KDOC regulations, specifically _____

This publication has been rejected because _____

[Specific portions or pages of the publication which are objectionable or other reasons forming a basis of rejection]

Either you, the publisher, or both may appeal this decision. If there is no appeal, the publication will be mailed out at your expense, if you so request, or shall be destroyed.

I wish to appeal on the grounds that (add additional pages if needed):

If you wish to appeal this decision, you must do so within 15 business days of the date of this notice by sending the appeal and publication to KDOC Secretary, Publication Appeals, 714 SW Jackson, Suite 300, Topeka, KS 66603. The decision will be made based on the publication and the materials you provide. A decision will be rendered within 20 business days of the receipt of your appeal and you will be notified in writing. The publication in question will be held until the decision in this matter is made, and then it will be delivered to you, mailed out at your expense [if you so request] or destroyed, depending on the outcome of the appeal.

Secretary of Corrections/Designee

Date

cc:

Publisher name and address